



Kentucky Tax Alert



A KRC PUBLICATION FOR THE TAX PROFESSIONAL

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Kentucky's Tax Amnesty Program is a Success!

The Kentucky Revenue Cabinet (KRC) extends appreciation to all tax practitioners for their assistance to clients who participated in the Kentucky Tax Amnesty program. The program proved to be very successful. More than 20,000 individuals and businesses have participated in the Tax Amnesty program. We have received over \$88 million from businesses and more than \$13 million from individuals. More than 38,000 tax bills have been resolved. A final total will not be available for several weeks due to the volume of applications received during the last week of the program.

We anticipate beginning the amnesty application approval process in November. Taxpayers will receive a letter of approval when the determination is made that all tax liabilities were resolved during amnesty. Any tax liens in place at the time of approval will also be released. In the event the determination is made that a taxpayer owes additional tax and/or has delinquent return(s), the taxpayer will receive notice of such and be given 30 days to comply. Failure to comply timely will result in the amnesty application being denied and all applicable interest, penalties, and fees being reinstated/assessed.

The post-amnesty fees and penalties should be reiterated to taxpayers and are as follows.

Post-Amnesty Fees

- (1) **Due and Owing Cost of Collection Fee**—Effective Oct. 1, 2002, the Due and Owing Cost of Collection Fee will be increased to 25 percent. This fee will be applicable to all reporting periods that become due and owing, regardless of when due.
- (2) **Assessment Cost of Collection Fee**—Any additional tax assessed by KRC after Sept. 30, 2002, for any reporting period ending prior to Dec. 1, 2001, will be assessed a 25 percent Assessment Cost of Collection Fee. This fee is only applicable to audit assessments issued by KRC. This fee is not applicable to taxes that are self-assessed by the taxpayer when he files a "no-pay" return.
- (3) **Failure to File Cost of Collection Fee**—Any tax assessed by KRC after Sept. 30, 2002, for any reporting period ending after Dec. 1, 1987, and before Dec. 1, 2001, for failure to file a required return will be assessed a 50 percent Failure to File Cost of Collection Fee. If KRC subsequently accepts a return from the taxpayer, the percentage will remain the same; however, the base will be changed to reflect the tax due shown on the filed return. Please note that this Failure

to File Cost of Collection Fee is mutually exclusive from the Assessment Cost of Collection Fee.

Post-Amnesty Penalties

- (1) **Minimum Jeopardy Assessment Penalty**—For any jeopardy assessment issued pursuant to KRS 131.150 on or after Jan. 1, 2003, for reporting periods ending on or after Jan. 1, 2003, KRC will assess the late file penalty pursuant to KRS 131.180(1) if the taxpayer subsequently files the required return. However, the minimum late file penalty will be \$100 versus the \$10 penalty currently provided in that statute. This penalty will not be decreased below \$100 by any subsequently filed return, even if the subsequently filed return results in a refund.

(continued on page 2)

Table of Contents

- | | |
|------|---|
| 1 | Kentucky's Tax Amnesty Program is a Success! |
| 2 | Hazard Taxpayer Service Center Closes |
| 2 | Electronic Commerce Notes of Interest |
| 3 | KRC Requires Submission of Employer Information via FTP |
| 3 | Two-Dimensional Bar Code Accepted for 2002 Individual Income Tax Returns |
| 3 | Estimated Tax Payment Deadlines |
| 3 | Employers Encouraged to Release Forms W-2/K-2 Early |
| 4 | KRC, IRS Sponsor Electronic Filing Seminars |
| 4 | U of L Tax School |
| 4 | KRC Offices Closed for Holidays |
| 4 | Kentucky's Pension Exclusion, Standard Deduction Increase for 2003 Tax Year |
| 4 | Importance of Using Correct Corporate Account Number |
| 5, 6 | Kentucky Income Tax Forms Requisition |
| 7 | Court Case Update |
| 7 | Pay Your Taxes With Credit Card! |

Kentucky's Tax Amnesty Program (continued from page 1)

- (2) **Minimum Estimated Assessment Penalty**—For any estimated assessment issued pursuant to KRS 131.180(4) on or after Jan. 1, 2003, for reporting periods ending on or after Jan. 1, 2003, KRC will assess the failure to file penalty pursuant to KRS 131.180(4). However, the minimum penalty assessed pursuant to that statutory provision will be \$100 versus the current \$25. This penalty will not be decreased below \$100 by any subsequently filed return, even if the subsequently filed return results in a refund.

In addition to the aforementioned post-amnesty fees and penalties, an Internet listing will be posted with the names of delinquent taxpayers.

Hazard Taxpayer Service Center Closes

The Hazard Taxpayer Service Center was closed effective Aug. 23, 2002. The service centers located in Pikeville, Corbin, or Frankfort will be available to assist taxpayers in this area with future tax issues. Refer to KRC's Web site at www.revenue.ky.gov for the addresses and phone numbers of all service centers.

**Electronic Commerce Notes of Interest****Electronic Filing (ELF) of Tax Returns**

In cooperation with the Internal Revenue Service (IRS), KRC will again offer electronic filing of individual income tax returns for the 2002 tax year. Authorization for electronic filing of Kentucky full-year resident returns is available to all interested preparers who:

- (1) are accepted in the federal electronic filing program;
- (2) transmit returns to the IRS Cincinnati Service Center;
- (3) use software approved for Kentucky electronic filing; and
- (4) pass KRC suitability checks.

Preparers who wish to participate in the coming year should submit federal Form 8633, Application to Participate in the Electronic Filing Program, to the IRS. The sooner the application is submitted, the sooner the preparer will receive authorization to participate in the program. KRC does not require a separate application.

Persons who wish to obtain a copy of KRC's handbook for electronic filers may call (502) 564-5370. Visit KRC's Web site at www.revenue.ky.gov to download this publication.

Again, during the 2003 filing season, Form 8453-K will not be mailed to KRC. The following guidelines have been established and were effective March 1, 2002.

Fed/State E-filed Returns With a Federal PIN—For returns filed via this method, Form 8453-K is not required. The use of the federal PIN meets signature requirements for the Kentucky return.

Fed/State E-filed Returns Without a Federal PIN—For returns filed via this method, Form 8453-K is required. This document does not need to be mailed to KRC. Electronic Return Originators (ERO) must retain Form 8453-K for three years. State copies of the wage statement, supporting schedules, documents



requiring signatures, and other informational documents should be attached to Form 8453-K and be retained by the ERO for three years.

Online Filing—For returns filed via this method, Form 8453-K is required. This document does not need to be mailed to KRC. Taxpayers must retain the form for a period of three years.

Form 8453-K is the signature portion of the electronic return. It must be completed, if required, and signed by all appropriate parties before the return is transmitted electronically. Form 8453-K:

- authenticates the return;
- authorizes the ERO to file the return electronically on behalf of the taxpayer; and
- authorizes KRC to inform the ERO whether a taxpayer's return has been accepted.

Electronic Funds Transfer (EFT)

KRC accepts the electronic transfer of funds for payment of sales and use, withholding, bank franchise, and certain types of motor fuels taxes. Detailed instructions for payment by EFT will be sent to all new registrants. Taxpayers who wish to participate in this program should register with KRC's Electronic Commerce Group (ECG). To obtain an application, or for additional information, contact the ECG at (502) 564-6020 (voice) or (502) 564-9897 (fax).

Common EFT errors include:

- Incorrect period end date is transmitted. The period end date is the last date of the reporting period, not the due date of the return.
- Account number and/or tax type is incorrect. Make sure the account number entered is the correct account number for the type tax being paid.
- Information is formatted incorrectly.
- Money is submitted via wire transfer without authorization.

Taxpayers assume that registration with KRC for tax ID numbers automatically registers them for EFT payments. Taxpayers must register for EFT to make payments electronically.

KRC Requires Submission of Employer Information via FTP

In accordance with KRS 141.335(2) KRC requires employee wage and tax statements to be submitted in such a form which KRC may prescribe by regulation.

KRC has revised the acceptable media types for submitting Employee Wage and Tax Statement (Form W-2) information. This revision is effective beginning tax year 2002 due on Jan. 31, 2003. KRC will no longer accept **3480** and **3490** cartridges for submitting magnetic media information. Regulation 103 KAR 18:050(5)(b) indicates that KRC will accept methods that can be supported by the Cabinet's equipment. KRC does not have the equipment necessary to process this type of media. Please make the necessary changes.

Computer Listings will no longer be accepted. Therefore, do not include these with your magnetic media or in lieu of your magnetic media submission.

Although all media listed below are acceptable at present, notice the list is in priority order of preference.

NOTE: FTP FORMAT IS THE SAME AS THE MAGNETIC SPECIFICATIONS ON OUR WEB SITE LISTED BELOW. MMREF-1 IS THE ONLY ACCEPTABLE FILE LAYOUT.

1. File Transfer Protocol (FTP)—See the specs for Magnetic Media or FTP.
2. CD
3. 3 ½" Diskette

All options (except FTP) require wage and tax information to be submitted with a Transmitter Report for Filing Kentucky Wage Statements (Form 42A806).

For more information on KRC's FTP application, contact KRC, Withholding Tax Section, 200 Fair Oaks Lane, Station 57, Frankfort, KY 40620; by telephone at (502) 564-7287, by fax at (502) 564-2041; or by e-mail at RevWeb@mail.state.ky.us.



Two-Dimensional Bar Code Accepted for 2002 Individual Income Tax Returns

For the 2003 processing season, KRC will again be accepting returns filed with a two-dimensional (2-D) bar code. Computer-generated Forms 740 and 740-EZ will have this bar code if prepared and printed with certain versions of computer software. KRC has approved a format to allow for printing of a computer-generated 2-D bar code. The computer software prints all of the information from your return in bar-code format.

The bar code is printed in the top right corner of page 1 of the tax return. By encoding all your tax return information into a 2-D bar code, returns can be processed in just a fraction of the time it takes to process a traditional paper return.



KRC prefers to receive all returns electronically, since this process is more efficient, more accurate, as well as much faster. However, KRC realizes that a number of taxpayers are not ready to give up on paper returns. Therefore, 2-D bar coding on paper returns serves as a bridge between paper returns and electronically filed returns for certain taxpayers. Filing your return with a 2-D bar code does not increase your chance for audit.

Visit our Web site at www.revenue.ky.gov for a list of software companies and Internet filing sites. Forms mailed in the tax packet and those available from KRC will continue to have scan boxes.

Estimated Tax Payment Deadlines

Individual income taxpayers are reminded that final 2002 quarterly estimated tax payments of 25 percent are due on Jan. 15, 2003. Final 2002 estimated corporation income tax payments of 25 percent are due on Dec. 16, 2002.



Taxpayers who have not yet made their April 15, June 15, or Sept. 15, 2002, estimated payments should submit those payments as soon as possible to minimize underestimation penalties.

Employers Encouraged to Release Forms W-2/K-2 Early

In an effort to speed the issuance of individual income tax refunds, employers are encouraged to release Employee's Wage and Tax Statements, Forms W-2/K-2, at the earliest possible date. This allows taxpayers to file their income tax returns earlier, thereby avoiding backlogs and delay of refunds. Fewer returns are filed at the beginning of the tax season than near the April 15 deadline. By increasing the number of tax returns filed early, refunds can be processed more efficiently.

KRC, IRS Sponsor Electronic Filing Seminars

KRC and the IRS will sponsor four seminars on electronic filing of individual income tax returns at various sites across the state. This year the seminars will include two sessions (morning and afternoon). The morning session runs from 9:30 a.m. to 11:30 a.m. and will cover E-file for Beginners. This includes application procedures, the e-file process, responsibilities of an authorized IRS e-file provider, and business considerations. The afternoon session (12:30 p.m. to 3:30 p.m.) is for all participants and will include federal and state program changes and updates. Also scheduled are representatives from the IRS Criminal Investigation Unit and Taxpayer Advocate's Office. Registration is recommended to help KRC and IRS plan the seminars and to allow participants to be advised of any changes.



Three of the seminars have already been conducted the remaining seminar will be held at the following location:

Nov. 25, 2002

Florence Government Center

8100 Ewing Boulevard

Florence, KY

(Parking available in gravel lot across from the Social Security Building.)

For questions or registration, call KRC, Judy Ritchie, Electronic Filing Coordinator, at (502) 564-5370.

U of L Tax School

The 50th annual Louis A. Grief Tax Institute will be held on Dec. 18-20, 2002, at the University of Louisville. Registration for the three-day seminar, including 24 hours of CPE credit, is \$185. Deadline for early registration is Dec. 9. After Dec. 9, registration is \$200. For more information, call (502) 852-5847.



KRC Offices Closed for Holidays

Pursuant to KRS 18A.190, all KRC offices will be closed Monday, Nov. 11, in observance of Veteran's Day; and Thursday and Friday, Nov. 28 and 29, in observance of Thanksgiving; Tuesday and Wednesday, Dec. 24 and 25, in observance of Christmas; and Tuesday and Wednesday, Dec. 31 and Jan. 1, in observance of New Year's Day. Normal hours will resume on Jan. 2, 2003.



Kentucky's Pension Exclusion, Standard Deduction Increase for 2003 Tax Year

Kentucky's individual income tax pension exclusion for the 2003 tax year is increasing to \$39,400. This exclusion applies to tax returns due April 15, 2004, and takes effect on Jan. 1, 2003.

Retirees who make quarterly estimated Kentucky individual income tax payments should take this revised pension exclusion into effect when calculating their quarterly payments for 2003. The first payment is due on April 15, 2003.

For the 2002 tax year, for which returns are due on April 15, 2003, the pension exclusion is \$38,775.

The revision is made pursuant to KRS 141.0105, which requires KRC to adjust the exclusion annually for inflation.

Additionally, Kentucky's standard deduction for individual income tax increases from \$1,800 to \$1,830 for the 2003 tax year as authorized by KRS 141.081(2). Taxpayers who do not itemize deductions on individual income tax returns are entitled to claim the standard deduction.



Importance of Using Correct Corporate Account Numbers

Using the correct **Kentucky corporation income and license account number**, along with the correct federal identification number, enables KRC to operate efficiently and minimizes unnecessary contacts with the taxpayer. Without the correct account number, document processing is delayed, payments are posted incorrectly, and/or delinquency notices are generated. Also, during initial document processing, if the corporation cannot be properly identified, a new and separate **Kentucky corporation income and license account number** may be issued to the corporation, resulting in duplicate account numbers.

Upon registering with KRC, corporations receive correspondence notifying them of the specific tax account numbers (corporate, sales, withholding, etc.) issued to the corporation. The **Kentucky corporation income and license account number** should always be included on all documents, payments, etc., that are submitted to KRC to ensure proper handling.



40A727
10-02**KENTUCKY INCOME TAX
FORMS REQUISITION****FROM: Revenue Cabinet
Frankfort, KY 40620**

The label at right will be used to mail your forms. **Do not detach.**
Please prepare a duplicate address below for our files.

Name _____

Street _____

City, State _____

and ZIP _____

Phone (____) _____

Date Ordered _____

TO: Name _____

Street _____

City, State _____
and ZIP Code _____**Check one:** ☐ Individual ☐ Attorney ☐ CPA ☐ Tax Practitioner ☐ Other _____**Package K** (contains all individual, fiduciary, partnership, corporation
and S corporation income tax forms, schedules and instructions) Quantity ➤

FORMS	ISSUANCE NO.	QUANTITY
740—Kentucky Individual Income Tax Return	42A740	*
740/740-EZ—Instructions	42A740-S11	
740-EZ—Kentucky Individual Income Tax Return	42A740-EZ	*
740-X—Amended Kentucky Individual Income Tax Return	42A740-X	
740-NP—Nonresident or Part-Year Resident Income Tax Return	42A740-S9	
Schedules A & ME (740-NP)—Itemized Deductions/Moving Expense and Reimbursement	42A740-S9 (A & ME)	
740-NP Packet	42A740-S10	
740-NP-R—Nonresident Income Tax Return—Reciprocal State	42A740-S9-R	
740-ES—2003 Estimated Tax Voucher	42A740-ES	*
740-ES—Instructions	42A740-S4	
Schedule A (740)—Itemized Deductions	Schedule A	*
Schedule J—Kentucky Farm Income Averaging	42A740-J	*
Schedule M—Kentucky Federal Adjusted Gross Income Modifications	42A740-M	*
Schedule P—Pension Income Exclusion	42A740-P	*
Schedule TC—Tax Computation Schedule	42A740-TC	*
Schedule UTC—Unemployment Tax Credit	42A740-UTC	*
1045-K—Kentucky Net Operating Loss Application for Income Tax Refund	42A740-S20	*
1045-K—Instructions	42A740-S20(I)	
2210-K—Underpayment of Estimated Tax by Individuals	42A740-S1	*
4972-K—Kentucky Tax on Lump-Sum Distributions	42A740-S21	*
8453-K—Kentucky Individual Income Tax Declaration for Electronic Filing	42A740-S22	
740-V—Kentucky Electronic Payment Voucher	42A740-S23	
8582-K—Kentucky Passive Activity Loss Limitations	42A740-S18	*
Application for Extension of Time to File Return (Individual, Partnership, Fiduciary)	40A102	

Total Forms—Page 1

Total Forms—Page 2

Total Forms Provided at No Charge

Total Forms ➤

***Forms shaded and marked with an
asterisk(*) are provided at no charge.**

Package K _____

Total Forms _____

Envelopes _____

x \$6.00 (each additional \$5.00)

x \$_____ each (see Forms Cost Schedule below) .

x \$3.50 per group of 100

Subtotal

Sales Tax (6%) (Kentucky residents only)

TOTAL ➤**Forms Cost Schedule**

1 – 24	NC
25 – 74	\$.09 each
75 – 100	.07
101 – 200	.06
201 – 500	.05
over 500	.04

Make check payable to:**Mail order form and check to:**

Kentucky State Treasurer

Kentucky Revenue Cabinet

FORMS

P.O. Box 518

Frankfort, Kentucky 40602-0518

FORMS	ISSUANCE NO.	QUANTITY
741—Kentucky Fiduciary Income Tax Return	42A741	
741—Instructions	42A741(I)	
741-D—Capital Gains and Losses	42A741-D	
Schedule K-1 (741)—Beneficiary's Share of Income, Deductions, Credits, etc.	42A741 (K-1)	
765—Kentucky Partnership Income Return	42A765	
765—Instructions	42A765(I)	
Schedule K-1 (765)—Partner's Share of Income, Credits, Deductions, etc.	42A765 (K-1)	
720—Kentucky Corporation Income and License Tax Return	41A720	★
720—Instructions	41A720(I)	
720S—Kentucky S Corporation Income and License Tax Return	41A720S	★
720S—Instructions	41A720S(I)	
Schedule K-1 (720S)—Shareholder's Share of Income, Credit, Deductions, etc.	41A720S (K-1)	★
720X—Amended Kentucky Corporation Income Tax and Corporation License Tax Return	41A720X	
720ES—Corporation Estimated Income Tax Voucher	41A720ES	★
720ES—Instructions	41A720-S4	
Schedule A (720)—Apportionment and Allocation	41A720A	★
Application for Extension of Time to File KY Corporation Income and License Tax Return	41A720SL	★
Schedule EZC—Kentucky Enterprise Zone Tax Credit	41A720EZC	★
Schedule HH—Housing for Homeless Families Deduction	41A720HH	★
Schedule RC—Application for Income Tax Credit for Recycling and/or Composting Equipment	41A720RC	★
Schedule RC(C)—Continuation Sheet for Schedule RC	41A720RC(C)	★
Schedule RC (K-1)—Pro Rata/Distributive Share of Recycling Equipment Tax Credit	41A720RC (K-1)	★
722—Election to File Consolidated Kentucky Corporation Income Tax Return	41A722	★
851-K—Kentucky Affiliations and Payment Schedule	41A851-K	★
Total Forms—Page 2 (enter here and on page 1)		➤
ENVELOPES (Available in groups of 100 only)		
Refund 6" x 9" Blue—Enter number of groups here and on page 1		➤
Payment 6" x 9" Yellow—Enter number of groups here and on page 1		➤

***Forms shaded and marked with an asterisk(*) are provided at no charge.**



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- Federal/State Online Filing



Have you seen our Web page?

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- Instructions
- and a Whole Lot More!

www.revenue.ky.gov

Court Case Update

Sales Tax—In *A.K. Steel Corporation v. Revenue Cabinet, Ky. App., ___ S.W.3d ___ (2002)*, the taxpayer asserted that its purchases of materials, supplies, and repair and replacement parts used in its steel-making processes were exempt from sales and use tax under KRS 139.480(12). This exemption provides:

Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for the use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994.

Specifically, the taxpayer argued that the language "all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process" embraced materials, supplies, etc., for any and all facilities used in that process and not just pollution control facilities.

The taxpayer relied upon a 1990 amendment to the law that had replaced the phrase "*such* facilities used specifically in the steel-making process" with "*the* facilities used specifically in the steel-making process" language previously quoted above. Thus, the taxpayer's position was that only materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities were covered by the June 30, 1994, sunset provision of KRS 139.480(12) and that all other materials, supplies, and repair and replacement parts purchased

for use in the maintenance and operation of all other facilities used in the steel-making process continued to be exempt.

In an opinion rendered on Sept. 6, 2002, the Court of Appeals agreed with KRC that no exemption was afforded under KRS 139.480(12) for materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of facilities besides pollution control facilities used specifically in the steel-making process. Thus, no exemption for materials, supplies, and repair and replacement parts provided for in KRS 139.480(12) survived beyond June 30, 1994.

As support for its holding, the Court noted that the General Assembly had expressed a preference for the use of the definite article "*the*" over "*such*," as evidenced by the Legislative Research Commission's *Bill Drafting Manual* and KRS 13A.122, "which provides legislative guidance for the drafting of regulations by state administrative agencies." Thus, the 1990 amendment had not made a substantive change or broadening of the exemption by its substitution of "*the*" for "*such*." The word "*such*" had made it clear that "*facilities*" in KRS 139.480(12) meant "*pollution control facilities*" only. The Court held that it was unlikely that General Assembly would have "intended to add a new exemption to a statute which was otherwise simply being amended to lengthen its sunset provision." In addition, the Court observed that "[l]ikewise, if '*the*' is read to substantively change the nature of the exemptions provided, the sunset provision would not clearly apply to either exemption, making that section of the statute illogical."

This case is now final.



Pay Your Taxes With Credit Card!

Kentucky taxpayers are taking advantage of a new payment option. This year, KRC began accepting MasterCard and VISA credit cards in payment of taxes. From mid-March through April 15, 2002, 173 credit card payments, totaling \$74,601, were applied to 2001 individual income tax liabilities. Taxpayers were able to make their credit card payments over the Internet by accessing KRC's home page.

In mid-May KRC employees began accepting credit card payments to be applied to outstanding tax liabilities (CARS bills). Since that time 336 payments totaling over \$195,000 have been processed. Credit card payment activity sharply increased due to the Tax Amnesty program. In August, 95 payments were processed for a total of \$69,680. In September, 174 payments were processed totaling \$87,412.

From January to April 15, 2003, taxpayers will again be able to access the Internet to pay their 2002 individual income tax liability by credit card. A program to allow sales and use and withholding taxpayers to file their returns and pay their tax liabilities electronically over the Internet is also scheduled to be implemented in 2003.



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Comments, suggestions and mailing list additions or corrections should be addressed to the Public Information and Communication Services Branch, Revenue Cabinet, Station 14, Frankfort, Kentucky 40620, (502) 564-4592.

Editors Sarah S. Gilkison, Betty R. Sanford
Writer Sarah S. Gilkison
Production Alice A. Bryant, Betty R. Sanford
Mailing List Ladonna C. Ware

Paul E. Patton, *Governor* Dana B. Mayton, *Secretary*

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KRC can be found on the World Wide Web at www.revenue.ky.gov



COMMONWEALTH OF KENTUCKY
REVENUE CABINET
FRANKFORT, KENTUCKY 40620

The Kentucky Revenue Cabinet
Mission Statement

The mission of the Kentucky Revenue Cabinet
is to...

Provide courteous, accurate and efficient
services for the benefit of the Commonwealth
and administer Kentucky tax laws in a fair and
impartial manner.

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